(d) prepare and enforce an annual plan;
(e) prepare and enforce development schemes;
(f) set up special function agencies, if required and guide, direct and assist them on matters pertaining to their respective functions; and
(g) carry out or cause to be carried out execution of projects and schemes framed under the perspective plan, development plan or the annual plan and for these purposes, it may carry out or cause to be carried out, surveys of the development area and prepare report or reports of such surveys, and to perform such other functions, which are supplemental, incidental or consequential to any of the functions aforesaid or as may be prescribed.

Staff of the Authority.

25. (1) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint a Secretary and such number or other officers and employees (including experts for technical work) as may be necessary for the efficient performance of its functions and may determine their designations and grades.

(2) The Secretary and other officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and shall be governed by such conditions of service as may be determined by regulations made in this behalf.

Advisory Council.

26. (1) The Government shall, as soon as may be after the constitution of the Authority, by notification, constitute an Advisory Council for the purpose of advising the Authority on the preparation of perspective plan, development plan, annual plan and development schemes and on such other matters relating to the planning of development, or arising out of, or in connection with, the administration of this Act as may be referred to it by the Authority.

(2) The Advisory Council shall consist of the following members, namely:-
(a) the Vice-Chairman of the Authority, ex-officio; who shall be the President;
(b) the members of the Authority referred to in clauses (g) and (h) of sub - section (5) of section 21 ex-officio;
(c) a member of the Sikkim Legislature, representing the whole or any part of the development area, to be nominated by the Government;
(d) members not exceeding three in number to be nominated by the Government who are elected members of the District Planning Committee or the municipal bodies constituted under the Sikkim Municipalities Act, 1995 or the panchayats constituted under the Sikkim Panchayat Act, 1993 as may be considered necessary.
(e) members not exceeding four in number to be nominated by the Government who, in the opinion of the Government have special knowledge or practical experience of matters relating to industry, landscaping, mines and geology, economics, geography or environmental science.

(3) The Advisory Council shall meet twice in a year and shall have the powers to regulate its own procedure.

(4) The members of the Advisory Council, other than the ex officio members shall hold office during the pleasure of the Government.

(5) The members of the Advisory Council excepting the members specified in clauses (c) and (d) of sub-section (2) may be paid such fees and allowances for attending its meetings, as may be determined by regulations

made in this behalf.

Constitutions of Committees.

27. (1) The Authority may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons and for such purposes as it may think fit.

(2) A Committee constituted under this section shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by regulations made in this behalf.

(3) The members of a Committee (other than those who are members of the Authority) shall be paid such fees and allowances for attending its meeting and for attending to any other work of the Authority, as may be determined by regulations made in this behalf.

Objects of the Authority.

28. The objects of the Authority shall be to promote and secure the development of all or any of the areas comprised in the development area concerned according to plan and for that purpose the Authority shall have power to acquire, hold, manage and dispose of land and other property, to carry out building, engineering, mining and other operations, to execute works in connection with supply of water and electricity, disposal of sewage, and other services and amenities and generally to do anything (including controlling development and co-ordinating developmental programmes of related agencies)necessary or expedient for purposes of such development and for purposes incidental thereto:

Provided that save as provided in this Act, nothing contained in this Act shall be construed as authorising the disregard by the Authority of any law for the time being in force.

Authority to act on general business principles.

29. The Authority while carrying out its functions, shall operate on general business principles.

CHAPTER - V

PREPARATION OF EXISTING LAND USE MAP AND REGISTER

Preparation of Existing Land Use Map and Register.

30. The Chief Town Planner and the Authority shall, not later than six months after the declaration of the regional planning area under section 11 and the development area under section 21 respectively or within such time as the Government may from time to time, extend , but not later than one year, prepare an Existing Land Use Map and a Land Use Register in the prescribed form indicating the present use of every piece of land in the regional planning area or the development area, as the case may be :

Provided that if a local authority has been appointed as the development authority for any development area and such local authority has prepared a Map or a Register, or both, in respect of the said area before the application of this Act to that area, the Map or the Register so prepared shall be deemed to be a Map or Register under this section.

Notice of the preparation of the Map and the Register.

31. (1) After the preparation of the Map and Register under section 30, the Chief Town Planner in the case of the regional planning area and the Authority in the case of the development area shall publish a public notice stating that such Map and Register has been prepared, and indicating therein the place or places where copies

of the Map or Register, or both may be inspected, and inviting objections in writing from any person with respect to the Map and the Register within thirty days of the publication of such notice.

(2) After the expiry of the period mentioned in sub-section (1), an officer designated by the Chief Town Planner or the Authority or a Committee appointed by the Chief Town Planner or the Authority for the purpose, as the case may be, shall, after allowing a reasonable opportunity of being heard to all the persons who have filed the objections, make a report to the Chief Town Planner or the Authority, as the case may be.

(3) The Chief Town Planner or the Authority, as the case may be, shall consider the report made under sub-section (2) and may make such modifications in the Map or Register or both as may be considered proper and adopt the Map and the Register:

Provided that the adoption of the Map and the Register by the Authority shall be by a Resolution.

(4) As soon as may be, after the adoption of the Map and the Register under sub-section (3), the Chief Town Planner or the Authority, as the cse may be, shall publish a public notice of the adoption of the Map and the Register and of the place or places where copies of the same may be inspected and shall submit copies of the Map and the Register to the Board and the Government.

(5) A copy of the public notice referred to in sub-section (4) shall also be published in the Official Gazette and such publication shall be conclusive evidence that the Map and Register have been duly prepared and adopted.

Power of the Government in case of default of Chief Town Planner or Authority to prepare the Map and Register.

32. (1) Where by virtue of the foregoing provisions of this Act, a Map and a Register are to be prepared then -

(a) if within the period specified in section 30 or within such period as the Government may extend, no Map or Register has been prepared; or

(b) if at any time the Government is satisfied that the Chief Town Planner or the Authority are not taking steps necessary to prepare such a Map and Register within that period, the Government may direct the Board in the case of the Chief Town Planner and the Chief Town Planner in the case of the Authority to prepare the Map and the Register.

(2) The Board and the Chief Town Planner shall, after the preparation of the Map and the Register, submit the same to the Government and the Board respectively, and the Government and the Board shall, for the purpose of adopting the Map and Register so prepared, follow the procedure and exercise the powers of the Chief Town Planner and the Authority specified in section 31 of this Act.

(3) Any expenses incurred under this section in connection with the preparation and publication of a Map and Register in respect of a regional planning area or a development area shall be met by the Chief Town Planner or the concerned Authority, as the case may be.

CHAPTER - VI
PREPARATION OF PLANS AND THEIR APPROVAL

Preparation of perspective plan of development area and its contents.

33. (1) As soon as may be, after the declaration of the development area under section 21 of this Act, the Authority shall, within one year after such declaration, prepare in consultation with the local authorities concerned, a twenty to twenty five years perspective plan of the development area including such contiguous areas thereto, as may be considered necessary or as the Government may direct to be include, after reviewing the implementation of such plan, if any, prepared earlier.

(2) The perspective plan prepared under sub-section (1) shall incorporate

socio-economic and developmental issues, goals, objectives, potentials, policies, strategies, and priorities pertaining to the following, as far as may be relevant -

(a) Physical characteristics and natural resources;
(b) Demography;
(c) Existing and proposed land uses;
(d) Economic development in primary, secondary and tertiary sectors as may be applicable;
(e) Poverty alleviation and employment generation in formal and informal sectors;
(f) Housing and shelter development;
(g) Transportation network including intercity and intra city mass transportation system and its interface with location of major activity nodes and land use pattern;
(h) Integrated infrastructure development covering -
(i) water harvesting and its utilisation;
(ii) energy;
(iii) drainage;
(iv) sanitation;
(v) refuse disposal;
(vi) education;
(vii) health;
(viii) recreation;
(ix) communication; and
(x) other utilities and services such as police protection, fire protection, etc.,
(i) Protection of environmentally sensitive areas and conservation of heritage;
(j) Provision of land stability and slope linked controls;
(k) Spatial development indicating direction of growth of settlement and its components such as residential, commercial, and industrial areas, open spaces, roads, etc;
(l) Renewal and upgradation of old or dilapidated areas and slums;
(m) fiscal resource mobilisation;
(n) Implementation mechanism and process;
(o) Phasing of the plan in periods of five years preferably co-terminus with the State five year plans; and
(p) Any other particulars and details as may be considered necessary by the Authority.

Existing plan to be deemed as perspective plan.

34. If prior to the commencement of this Act, any Master Plan or Development Plan for the development area has been prepared under any other law, such master plan or development plan shall be deemed to be a perspective plan of the area prepared under this Act.

Power of Government in case of default of development authority to prepare the Plan.

35. (1) Where by virtue of the provisions of this Act, a plan is to be prepared;
(a) If within the period prescribed, no plan has been prepared, or
(b) If at any time the Government is satisfied that the Authority is not taking steps necessary to prepare such a plan within that period, the Government may direct the Chief Town Planner to prepare the plan and recover the cost thereof from the Authority concerned out of its funds.

(2) After the preparation of the Plan, the Chief Town Planner shall submit the Plan to the Board and the Board shall follow the procedure and exercise the powers

of the Authority under section 37 and 38.

Preparation of development plan of development area and its contents.

36. (1) Every Authority shall, not later than eighteen months from the date of declaration of the development area under section 21, prepare a development plan within the framework of the approved perspective plan covering the whole or part of the development area, as may be necessary, for a period of five years.

(2) Notwithstanding anything contained contrary to sub-section (1) in case no approved perspective plan exists, the Authority shall take into account the provisions of the perspective plan under preparation according to the provisions of sub-section (1) of section 33, and prepare the development plan within three years from the date of declaration of the development area under section 21.

(3) A development plan shall generally indicate the manner in which the use of land in the development area covered by such plan shall be regulated and also indicate the manner in which the development therein shall be carried out. In particular it shall, provide, so far as may be necessary, for all or any of the following -

(a) analysis of dynamics of development which may include analysis of history of development, present status and trend of development, location, site and situation, regional context, hinterland, its attributes and accessibility, physiographic: and demographic characteristics; city influence area and its characteristics including settlement pattern, rural-urban relationship and fringe area developments ;

(b) current issues and prospects regarding ;

(i) economic base and employment in trade, commerce and industries in both formal and informal sectors ;

(ii) hierarchy of commercial areas, dispersal of commercial activities and related issues ;

(ii) dispersal of industries or restriction on specific type of industries considering the pollution level and environmental sustainability ;

(iv) urban poverty and alleviation;

(v) housing including informal sector housing, resettlement strategy and slum upgradation ;

(vi) educational facilities including specialised education and research centres, health facilities including specialised hospitals, cultural and religious facilities;

(vii) public and semi-public offices;

(viii) system of open spaces, play fields and recreation areas; conservation areas; ecological and environmentally sensitive areas and public gathering grounds;

(ix) transportation covering ; road, railway, pedestrain-path networks and related activity centres, parking and terminal facilities ; mass transportation system and its intergration with activity nodes and land use pattern and airport ;

(x) utilities and services such as water supply, drainage, sewerage, solid waste management, energy, communication, police, fire protection, cremation and burial grounds ;

(c) existing land use ;

(d) space requirement for various activities ;

(e) economic and spatial development goals and objectives ;

(f) development proposals which may include ;

(i) concept of hierarchy of planning units and distribution of various activity nodes, facility centres, etc.

(ii) mass transportation system and land use interface, transport and commu-

nication facilities such as hierarchy and network of roads, highways, parkways, railways, waterways, canals and airport including their extension, development and co-ordination ;

(iii) proposals for designing the use of land for residential development including informal sector housing and slum upgradation ; commercial, industrial, agicultural and recreational use,

(iv) proposals for reservation of land for community facilities and services; public purposes such as schools, colleges and other educational institutions, medical and public health institutions, markets, social welfare and cultural institutions, theatres and places for public entertainment, public assembly museums, art galleries, religious buildings, parks, gardens and play - grounds, stadia, sites and services schemes, slum u pgradation schemes, housing accommodation for socially and economically backward classes of people; parking and terminal facilities such as inter - city and intra - city bus and truck terminus, dairies, areas for open spaces, zoological gardens, natural reserves and sanctuaries ; burial grounds, cremation grounds including electric crematorium; slaughter houses, tanneries and for such other purposes as may, from time to time, be considered necesary ;

(v) proposals for water supply, drainage, sewage and solid waste disposal, other public utilities, amenities and services including supply of electricity and gas and provision for telephones and postal services;

(vi) public and semi-public offices;

(vii) renewal and redevelopment areas;

(viii) protection of environment, prevention of air and water pollution, promotion of ecological aspects, preservation, conservation and development of areas of natural scenery and landscape, urban forestry;

(ix) preservation of features, structures, places of historical, architectural and scientific interest and educational value ;

(x) proposals for flood control, land stability and sloped linked controls;

(xi) proposals for preservation of land for public purpose by the central, State and local government or any other authority or body established by or under any law for the time being in force ;

(xii) the filling up or reclamation of low lying, swampy or unhealthy areas or levelling up of land ;

(xiii) proposals for preparation of development schemes pertaining to tourism, environmental conservation, heritage, sites for reclamation, highway corridor development and the like; and

(xiv) such other proposals for public purposes as may, from time to time, be approved by the Authority or as may be directed by the Government in this behalf ;

(g) implementation mechanism which shall include -

(i) phasing of proposals contained in the development plan depending upon the priorities determined ;

(ii) identification of sector-wise schemes and projects to be implemented by Central or State Government, authority, corporate bodies, co-operative and private sector ;

(iii) development promotion regulations for promoting and regulating the use and development of land including imposition of conditons and restrictions in regard to the open spaces to be maintained for the buildings, the Floor Ratio or the Floor Space Index, the location, number, size, height, number of storeys and character of buildings and density of built-up area

allowed in specified area, the use and purposes to which the building or specified areas of land may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking spaces, loading and unloading space for any building and the size of any projections and advertisement signs and hoarding and other matters as may be considered necessary for carrying out the purposes of this Act;

(iv) Fiscal requirements and resource mobilisation proposals;

(h) monitoring and review mechanism.

Approval of perspective plan of development area.

37. (1) As soon as may be, but not later than thirty days of the preparation of the perspective plan of a development area, the concerned Authority shall accord its consent to the contents of the perspective plan and forward it to the Chief Town Planner and the District Planning Committee if constituted under section 184 of the Sikkim Municipalities Act, 1995, for concurrence.

(2) The Chief Town Planner and the District Planning Committee respecively, within thirty days from the date of receipt of the perspective plan forwarded to it under sub-section (I) shall examine it in the light of the State perspective plan and the regional development plan and the District Planning Committee in the light of the draft development plan, if any, of the district concerned and communicate in writing their concurrence to the State perspective plan and the regional develpment plan and the draft development plan of the district, as the case may be, with or without specific modifications.

(3) On receipt of the concurrence under sub-section (2), the Authority shall, not later than thirty days, modify if necessary, the perspective plan in the light of the specific modifications obtained in the concurrence letter of the Chief Town Planner or the District Planning Committee, as the case may be, and resubmit the modified plan to the Chief Town Planner, or the concerned District Planning Committee, as the case may be.

(4) The Chief Town Planner or the District Planning Committee, as the case may be, shall further examine the modified perspective plan, in the light of the specific modifications, suggested by it under sub-section (2) and communicate in writing within thirty days from the date of resubmission of the plan under sub-section (3) its concurrence with or without further modifications.

(5) If the concurrence of the Chief Town Planner or the District Planning Committee is not received within the time allowed under sub-section (2) or sub-section (4), the concurrence shall be deemed to have been given by the Chief Town Planner or, as the case may be, the District Planning Committee.

(6) As soon as may be, but not later than thirty days from the date of receipt of the concurrence from the Chief Town Planner and the District Planning Committee, and after modifying the perspective plan, if necessary, the Authority shall publish a notice in atleast one local newpaper of the preparation of the perspective plan inviting objections and suggestions from the public within thirty days from the date of publication of the notice in the newspaper. The notie shall state the name of the place or places where a copy thereof or extracts therefrom certified to be correct shall be available for sale to the public at a reasonable price.

(7) The Authority shall, within a period of sixty days of the date of expiry of notice under sub-section (6), consider all the objections received within the time allowed under sub-section (6) and after making such enquiry as it may consider necessary and after giving reasonable opportunity of being heard to those persons who have made a request in writing for being so heard, modify, if necessary, the perspective plan and

submit it together with the objections and suggestions received under sub-section (6) to the Government and also to the Chief Town Planner for approval.

(8) The Government shall in consultation with the Chief Town Planner, approve the perspective plan with or without modifications within sixty days of its receipt.

(9) The Authority shall publish a notice in the Official Gazette and one local newspaper of the approval of the perspective plan, stating the name of the place where a copy thereof shall be available for inspection by the public and that copies thereof or extracts therefrom certified to be correct shall be available for sale to public at a reasonable price.

(10) The perspective plan shall come into force from the date of publication of notice of approval of the perspective plan in the Official Gazette under sub-section (9).

(11) The provisions relating to the District Planning Committee as referred to in this section shall take effect only when the District Planning Committees are constituted under section 184 of the Sikkim Municipalities Act, 1995.

Approval of development plan.

38. (1) As soon as may be , but not later than thirty days of the preparation of the development plan of a development area, the Authority shall accord its consent to the development plan, and forward it to the Chief Town Planner and the District Planning Committee if constituted for concurrence.

(2) The Chief Town Planner and the District Planning Committee, shall thirty days from the date of the receipt of the development plan forwarded to it under sub-section (1), examine it in the light of the perspective plan approved or under the process of approval under section 37 and communicate their concurrence in writing to the development plan being within the framework of perspective plan or suggest specific modifications if any, to bring it in conformity with the perspective plan.

(3) The Authority shall modify, if necessary, within thirty days, the development plan in the light of the specific modifications suggested in the concurrence letter of the Chief Town Planner or the concerned District Planning Committee and resubmit it to the Chief Town Planner or the concerned District Planning Committee, as the case may be.

(4) The Chief Town Planner or the District Planning Committee, shall further examine the development plan, in the light of specific modifications suggested by it under sub-section (2) and commnicate within thirty days from the date of resubmission of the plan, under sub-section (3), its concurrence in writing with or without further specific modifications.

(5) In case there are further specific modifications suggested in the concurrence letter received under sub-section (4), the Authority shall take necessary action to modify the development plan and resubmit, within thirty days, the modified plan for concurrence of the Chief Town Planner or the District Planning Committee, but the part in respect to which no specific modifications has been suggested shall deemed to have been concurred with and the Authority shall proceed further for getting approval as provided under sub-section (7) of that part of the development plan in respect of whch no modifications are required under sub-section (4).

(6) If the concurrence of the Chief Town Planner or the District Planning Committee is not received within the time allowed under sub-section (2) or (4) as the case may be, within thirty days from the date of resubmission under sub-section (5) as the case may be, the concurrence shall be deemed to have been given by the Chief Town Planner or, as the case may be, the District Planning Committee.

(7) As soon as may be, but not later than thirty days from the date of receipt of the concurrence letter from the Chief Town Planner the District Planning Committee, as the case may be, under sub-sections (2), (4) and (5) or deemed concurrence as

stipulated under sub-section (6), as the case may be, the Authority shall publish a notice in at least one local newspaper of the preparation of the development plan, inviting objections and suggestions from the public within thirty days from the date of publication of the notice in the newspaper. The notice shall state the name of the place or places where a copy thereof shall be available for inspection by the public and that copies therof or extracts therefrom,certified to be correct, shall be available for sale to the public at reasonable price.

(8) The Authority shall, within a period of sixty days of the date of expiry of notice under sub-section (7), consider all objections and suggestions received within the time allowed under sub-section (7) and after making such enquiry as it may consider necessary and after giving reasonable opportunity of being heard to those persons who have made request in writing for being so heard, modify, if necessary, the development plan and submit to the Government for approval.

(9) As soon as may be, after the receipt of the develoment plan, but not later than two months, the Government after consulting the Chief Town Planner, may either approve the development plan or may approve it with such modifications as it may consider necessary or may return the development plan to the Authority to modify the plan or to prepare a fresh plan in accordance with such directions as the Government may issue in this behalf.

(10) Immediately after the development plan has been approved by the Government, the Authority shall publish a notice in Official Gazette and in at least one local newspaper of the approval of the development plan, stating the name of the place or places where a copy thereof shall be available for inspection by the public and that copies thereof or extracts therefrom certified to be correct shall be available for sale to public at a reasoable price.

(11) The development plan shall come into force from the date of publication of notice in the Official Gazette under sub-section (10).

(12) The provisions relating to District Planning Committees shall take effect only when the District Planning Committees are constituted under section 184 of the Sikkim Municipalities Act, 1995.

Review, revision and preparation of fresh perspective plan of the development area.

39. (1) Immediately after the expiry of ten years from the date of approval of the perspective plan of the development area under section 37, the Authority shall review such plan and prepare a fresh perspective plan for a period of twenty to twenty five years from the date of review after incorporating such modifications and amendments as may be considered necessary and submit it for approval:

Provided that the time period taken for the review and preparation of fresh perspective plan shall not exceed two years.

(2) The provisions of sections 33 and 37 shall, mutatis mutandis, apply to the preparation and approval of such a fresh perspective plan.

Review, revision and preparation of fresh development plan of the development area.

40 (1) Immediately after the expiry of three years from the date of approval of the development plan of the development area under section 38, the Authority shall review such plan and prepare a fresh development plan for five years commencing from the date of expiry of such a plan in force after incorporating such modifications and amendments as may be considered necessary and submit it for approval:

Provided that the time period taken for the review and preparation of fresh development plan shall not exceed eighteen months.

(2) The provisions of section 34 and section 38 shall, mutatis mutandis, apply to the preparation and approval of such a fresh development plan.

Provisions of development plan to prevail.

41. If any provision of an approved development plan of a development area is at variance with the provisions of the approved perspective plan of the same area, the provision contained in the approved development plan shall prevail.

Modifications in perspective plan or development plan of development area.

42. (1) Notwithstanding anything contained in sections 39 and 40, the perspective plan or development plan of a development area may be modified any time and for this purpose, the Authority shall publish a draft of the proposed modifications by a notice in at least one local newspaper inviting objections and suggestions from the public within thirty days from the date of aforesaid publication of the notice, and after giving an opportunity of being heard to such persons who have made request for being heard and after considering the objections and suggestions finalise the modifications in the plan and submit it to -

(a) the Board in the case of modifications in a perspective plan ; or

(b) the Government in case of modifications in the development plan.

(2) The Board or the Government, as the case may be, approve the modifications with or without variations or refuse to approve the modification by a notification, in the Official Gazette and in at least one local newspaper:

Provided that no modifications shall be proposed or approved unless they are:

(a) of emergent nature; or

(b) of minor nature in the interest of implementation which do not materially affect the structure of the plan; and

(c) in public interest and are notified to the public.

CHAPTER - VII

CONTROL OF DEVELOPMENT AND USE OF LAND

Use and development of land to be in conformity with the development plan, or development scheme.

43. After the coming into operation of any development plan or a development Scheme in an area, no person shall use or permit any other person to use any land or carry out any development in that area otherwise than in conformity with such a development plan or a development scheme:

Provided that the Authority may allow on application, the continuance, for a period not exceeding ten years, upon such terms and conditions as may be prescribed by the regulations made in this hehalf, of any land for the purpose and to the extent, for and to which it is being used on the date on which such a plan or Scheme came into operation.

Prohibition of development.

44. (1) After the enforcement of this Act and subject to the provisions of this Act, no development, or institution, or change of use of any land shall be undertaken or carried out in that area :-

(a) without obtaining a certificate from the Authority certifying that the develoment charges as leviable under this Act have been paid or that no such development charges are leviable; and

(b) without obtaining the permission in writing as provided for hereinafter :

Provided that no such permission shall be necessary -

(i) for carrying out such works for the maintenance, improvement or other alteration of any building, which affects only the interior of building or which do not materially affect the external appearance of the building;

(ii) for crrying out by the Central or the State Government or any local authority of any works required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road

or public street;

(iii) for carrying out by the Central or the State Government or any local authority of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains pipes, cables or other apparatus including the breaking open of any street or other land for that purpose ;

(iv) for the excavation (including wells) made in the ordinary course of agricultural operations ;

(v) for the construction of unmetalled road intended to give access to land solely for agricultural purposes ;

(vi) for normal use of land which has been used temporarily for other purposes ;

(vii) in case of land, normally used for one purpose and occasionally used for any other purpose for the use of land for that other purpose on occasions ;

(viii) for use, for any purpose incidental to the use of a building for human habitation, or any other building or land attached to such building.

Permission for development.

45. (1) Any person or body intending to carry out any development on any land shall make an application in writing to the Authority for permission in such form containing such particulars and accompained by such documents, fee and plans as may be prescribed by the rules and regulations ;

(2) On such application having been duly made, and on payment of the development charges as may be assessed under Chapter X of this Act,

(a) the Authority may pass an order :

(i) granting permission unconditionally; or

(ii) granting permission suhject to such conditions as it may consider fit, or

(iii) refusing permission;

(b) without prejudice to the generality of the foregoing clause, the Authority may impose conditions :

(i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous condition or the use of the land permitted shall be discontinued ;

(ii) for regulating the develoment or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the Authority to be expedient for the purpose of the permitted development.

(3) The Authority in dealing with the applications for permission shall have regard to:

(a) the provisions of the development plan or development scheme in force or under preparation; or

(b) any other material consideration.

(4) When permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order.

(5) Any such order shall be communicated to the applicant in the manner prescribed by regulations.

(6) In the case of a department of Central or State Government or local authority intending to carry out any development other than operational constructions on any land, the concerned department or local authority, as the case may be, shall notify in writing to the Authority, of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be prescribed by the Government from time to time, at least thirty days prior to the undertaking of such development; where the Authority has raised any objection pertaining to the proposals received

under sub-section (2) in respect of the conformity of the proposed development either to any matter in sub-section(3) or to any of the building bye-laws in force at the time, the department or the local authority, as the case may be, shall :-

(a) either make necessary modifications in the proposals for development to meet the objections raised by the Authority, or

(b) submit the proposals for development together with the objections raised by the Authority to the Government for decision. When proposals and objections have been submitted, no development shall be undertaken until the Government has finally decided on that matter.

(7) The Government on receipt of the proposals for development together with the objections of the Authority shall, in consultation with the Chief Town Planner either approve the proposals with or without modifications or direct the concerned department or local authority, as the case may be, to make such modifications in the proposals as they consider necessary in the circumstances.

(8) The "Operational Constructions" of the departments of the Central or State Government or local authority, as may be notified by the Government from time to time, shall be exempted from the purview of the Authority.

Appeal against refusal or conditional grant of permission.

46. (1) Any applicant aggrieved by an order passed under sub-section (2) of section 45 may appeal, within one month of the communication of that order or if no order is passed, after the expiry of the period of three months from the date of submitting the application for permission, to the Government or an officer appointed by the Government, in this behalf in the manner and accompanied by such fees as may be prescribed.

(2) The appellate authority, after receiving the appeal and after giving reasonable opportunity to the applellant and the concerned Authority to be heard, may pass an order dismissing the appeal or allowing the appeal by:-

(a) granting permission unconditionally; or

(b) granting permission subject to such conditions as it may think fit; or

(c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as it may consider fit.

Lapse of permission.

47. Every permission for any development granted under this Act shall remain in force for a period of three years only from the date of such permission:

Provided that the Authority may, on application made in this behalf before the expiry of the aforesaid period, extend such period, for such time as it may consider proper; but such extended period shall in no case exceed one year:

Provided further that such lapse shall not be a bar for any subsequent application for fresh permission under this Act.

Obligation to acquire land on refusal of or on grant of permission in certain cases.

48. (1) Where :-

(a) any land is designated by a plan as subject to compulsory acquisition; or

(b) any land is allotted by a plan for the purpose of any functions of a Government or a local authority or a statutory body, or land is designated in such plan as a site proposed to be developed for the purposes of any functions of any such Government, authority or body; or

(c) any land is indicated in any plan as land on which a highway is proposed to be constructed or included; or

(d) any land for the development of which permission is refused or is granted subject to conditions, and any owner of land referred to in clauses (a), (b), (c) or (d) claims :-

(i) that the land has become incapable of reasonably beneficial use in its existing state; or

(ii) where planning permission is given subject to conditions that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with the conditions; or

(c) the owner of the land because of its designation or allocation in any plan calims that he is unable to sell it except at a lower price than that at which he might have reasonably expected to sell if it were not so designated or allocated;

The owner or person affected may serve on the Government within such time and in such manner, as may be prescribed by regulations, a notice (hereinafter referred to as " the purchase notice") requiring the appropriate authority to purchase his interest in the land in accordance with the provisions of this Act.

(2) The purchase notice shall be accompanied by a copy of an application made by the applicant to the Authority, and of an order or decision of that Authority and of the Government, if any, in respect of which the notice is given.

(3) On receipt of a purchase notice, the Government shall, forthwith, call from the Authority such report or records or both, as may be necessary, which those authorities shall forward to the Government as soon as possible but later than thirty days from the date of their requisition.

(4) On receiving such reports or records, if the Government is satisfied that the conditions specified in sub-section (1) are fulfilled and that the order or decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Act or rules or regulations, it may confirm the purchase notice, or direct that planning permission be granted without condition or subject to such conditions as will make the land capable of reasonably beneficial use. In any other case, it may refuse to confirm the purchase notice, but in that case, it shall give the applicant a reasonable opportunity of being heard.

(5) If within a period of six months from the date from which the purchase notice is served, the Government does not pass any final order thereon, the notice shall be deemed to have been confirmed at the expiration of that period.

(6) If within one year from the date of confirmation of the notice, the appropriate authority fails to make an application to acquire the land in respect of which the purchase notice has been confirmed, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed; and thereupon the land shall be deemed to be released from the reservation, designation or, as the case may be, allotment, indication or restriction and shall become available to the owner for the purpose of development otherwise permissible in the case of adjacent lands under the relevant plan.

Power of revocation or modification of permission to develop.

49. (1) If it appears to the Authority that it is expedient, having regard to development plan prepared or under preparation and to any other material consideration that any permission to develop land granted under this Act or any other law should be revoked or modified, the Authority after giving the person concerned an opportunity of being heard against such revocation or modification, may, by an order, revoke or modify the permission to such extent as appears to it to be necessary:

Provided that -

(a) where the permission relates to the carrying out of building or other operations, no such order :-

(i) shall affect such of the operations as have been previously carried out;

(ii) shall be passed after these operations have substantially progressed or have been completed;

(b) where permission relates to a use of land, no such order shall be

passed at any time after the change has taken place.

(2) When a permission is revoked or modified by an order made under sub-section (1), if the owner claims from the Authority within the time and in the manner prescribed, compensation for the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification, the Authority shall, after giving the owner reasonable apportunity of being heard by an officer appointed by it in this behalf, and after considering the officer's report assess and offer such compensation to the owner as it thinks fit.

(3) If the owner does not accept compensation, and gives notice, within such time as may be prescribed, of his refusal to accept, the Authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and Authority.

Penalty for unauthorised development or for use otherwise than in conformity with the development plan or development scheme.

50 (1) Any person who, whether at his own instance or at the instance of any other person or anybody commences, undertakes or carries out development, institutes, or changes use of any land or building: -

(a) in contravention of any development plan or development scheme;

(b) without obtaining a certificate regarding development charges under clause (a) of sub-section (1) of section 44;

(c) without permission as required under this Act;

(d) in contravention of any condition subject to which such permission has been granted;

(e) after the permission for development has been revoked under section 49; or

(f) in contravention of the permission which has been modified under section 49;

shall, on conviction be punishable with simple imprisonment for a term which may extend to three years, or with a fine whcih may extend to ten thousand rupees or with both and in the case of a continuing offence with a further fine which may extend to five hundred rupees for each day during which the offence continues after conviction for the first commission of the offence.

(2) Any person who continues to use or allows the use of any land or building in contravention of the provisions of the development plan or development scheme without having been allowed under section 43 or where the continuance of such use has been allowed under that section, continues such has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed, shall be punishable with a further fine which may extend to five hundred rupees for each day during which such offence continues after conviction for the first commission of the offence.

Power to require removal of unauthorised development.

51. (1) Where any development of land has been or is being carried out as described in section 50, the Authority, shall serve on the owner a notice requiring him, within such period, not exceeding one month, as may be specified therein, after the service of the notice, to take such steps as may be specified in the notice,

(a) in cases specified in clauses (a), (c) or (e) of sub-section (1) of section 50 to restore the land to its condition before the said development takes place;

(b) in cases specified in clause (d) or (f) of sub-section (1) of section 50 to secure compliance with the conditions or with the permission as modified;

(c) in cases specified in clause (b) of sub-section (1) of section 50 to pay

the development charges and such penalty, if any, as may be prescribed;

(2) In particular, any such notice may, for the purpose of sub-section (1) require:-

(a) the demolition or alternation of any building or works;

(b) the carrying out on land, of any building or other operations;or

(c) the discontinuance of use of any land:

Provided that in case the notice required the discontinuance of use of any land, the Authority shall serve a notice on the occupier also.

(3) Any person aggrieved by such notice may, within the period specified in the notice and in the manner prescribed :-

(a) apply for permission under section 45 of this Act for the retention on the land or any buildings or works or for the continuance of any use of the land, to which the notice relates; or

(b) appeal to such authority and in such manner as may be prescribed.

(4) (a) The notice shall be of no effect pending the final determination or withdrawal of the application or the appeal.

(b) (i) The provisions of the foregoing sections 45,46 and 47 shall apply to such application with such modifications as may be necessary.

(ii) If such permission as aforesaid is granted on that application, the notice shall not take effect, or if such permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land, the notice shall not take effect regarding such buildings or works or such part of the land, but shall have full effect regarding other buildings or works or other parts of the land.

(5) The appellate authority may dismiss the appeal or accept the appeal by quashing or varying the notice as it may consider fit.

(6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application for permission or the appeal under sub-section (3) the notice or so much of it continues to have effect, or the notice with variation made in appeal, is not complied with, the Authority may :-

(a) prosecute the owner for not complying with the notice and in case where the notice required the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(b) (i) in the case of the notice requiring the demolition or alteration of any building or works or carrying out of any building or any other operations, itself cause the restoration of the land to its condition before the development took place and secure the compliance with the conditions of the permission or with the permission as modified, by taking such steps as the Authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations;

(ii) the Authority may recover the cost of any expenses incurred by it in this regard from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (a) of sub-section (6) shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to ten thousand rupees, or with both and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for each day during which such offence continues after conviction for the first commission of the offence.

Power to stop unauthorised development.

52. (1) Where any development of land as described in section 50 is being carried out but has not been completed, the Authority may serve on the owner and the person carrying out the development, a notice requiring the development of land to be

discontinued from the time of the service of such notice.

(2) Where such notice has been served, the provisions of clause (b) of sub-section (4) and sub-section (5) of section 51 shall apply with such modifications as may be necessary :

Provided that provisions of clause (a) of sub-section (4) of section 51 shall not apply, in spite of filing an application for permission for development or an appeal as provided in clause (b) of sub-section (3) of section 51, and the notice shall continue to have full effect.

(3) Any person, who continues to carry out the development of land, whether for himself or on behalf of the owner or any other person, after such notice has been served, shall be punishable with simple inprisonment for a term which may extend to three years, or with a fine which may extend to ten thousand rupees, or with both and when the non-compliance is a continuing one, with a further fine which may extend to five hundred rupees for each day after the date of the service of the notice during which non-compliance has continued or continues.

(4) If such notice is not complied with forthwith, the Authority or such officer of the Authority who may be authorised in this behalf, may require any police officer to remove such person and all assistants and workmen from the land at any time after the service of such notice and such police officer shall comply with the requisition accordingly.

(5) After the requisition under sub-section (4) has been complied with, the Authortiy or such officer of the Authority who may be authorised on this behalf, may if he thinks fit, depute, by a written order, a police officer or any officer or employee of the Authority to watch the land in order to ensure that the development is not continued. The Authority shall be empowered to seal the unauthorised development.

(6) Where a police officer or an employee of the Authority has been deputed under sub-section (5) to watch the land, the cost of such deputation shall be paid by the person at whose instance such development is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as arrears of land revenue.

Removal or discontinuance of unauthorised temporary development summarily.

53. (1) Notwithstanding anything contained in this Chapter, hereinbefore, where any person has carried out any development of a temporary nature unauthorisedly as indicated in sub-section (1) of section 50, the Authority may by an an order in writing direct that person to remove any structure or work erected, or discontinue the use of land made, unauthorisedly as aforesaid, within fifteen days of the receipt of the order; and if thereafter, the person does not comply with the order within the said period, the Authority may request the District Magistrate or the Commissioner of the Police, or the Superintendent of Police, as the case may be, or authorise any of its officers or sevants, to have such work summarily removed or such use summarily discontinued without any notice as directed in the order ; and any development unauthorisedly made again, shall be summarily removed or discontinued without making any order as aforesaid.

(2) The decision of the Authority on the question of what is development of a temporary nature shall be final.

(3) The Authority may recover the cost of any expenses incurred by it in this regard from the owner as arrears of land revenue.

Power to require removal of authorised development

54. (1) If it appears to the Authority that it is expedient in the interest of the proper planning of its areas (including the interests of amenities), having regard to the perspective plan of the development area or its development plan prepared, and to any other material consideration;